

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

MICHAEL BRAHAM,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 3:08cv1564 (DEW)
	:	
THERESA LANTZ, et al.,	:	
	:	
Defendants.	:	

ORDER

The plaintiff seeks sanctions regarding, inter alia, the defendants' failure to produce requested discovery, including emails from 2006 and 2007. (Doc. #135.) The motion is fully briefed. In May 2012, the defendants reported that the email search would be completed by July 2012. (Doc. #91, Memorandum of Status Conference at 1.) No emails were produced in 2012. In August and November 2013, the defendants reported that they were "able to search the email accounts" of three of the six defendants: Acas, Adgers and Lee. (Doc. #144, Neal Aff. ¶6.) As a result, the defendants produced 13 pages of email. (Doc. #135, Ex. L.) During oral argument on the plaintiff's motion in January 2014, defense counsel represented that a search was done on the remaining three defendants but no emails resulted. It is unclear, however, whether the DOC was unable to locate documents because the defendants did not create any responsive emails or whether the defendants' emails were deleted and unable to be restored.<sup>1</sup> The record contains no

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<sup>1</sup>It is undisputed that the DOC did not institute a litigation hold.

information about the search, i.e., how long the DOC retains emails, whether/how the emails were backed up, whether the emails could be (or were) restored, whether any of the defendants' emails were irretrievably lost and the technology used (if any) to search the emails.<sup>2</sup> Defense counsel conceded that he has no information regarding the details of the search or knowledge regarding his client's document retention policies or data retention architecture.

On or before March 7, 2014, the defendants shall submit an affidavit or affidavits from information technology personnel at the DOC with personal knowledge of the search of all six defendants' email setting forth the particulars of the search and responding to the aforementioned inquiries. Any subsequent motion shall be filed within 2 weeks thereafter.

SO ORDERED at Hartford, Connecticut this 25th day of February, 2014.

\_\_\_\_\_/s/\_\_\_\_\_  
Donna F. Martinez  
United States Magistrate Judge

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<sup>2</sup>The plaintiff notes that one email was addressed to four defendants but was only produced as to one. (Doc. #135 at 15, Ex. D.)